

AIR POLLUTION CONTROL DISTRICT HEARING BOARD NOTICE

The petition form, facts to support findings form, and all required fees must be submitted before the hearing can be scheduled. All applicants should be present at the Hearing Board Meeting and available for testimony should the Hearing Board request further information. In accordance with Health and Safety Code Section 42352.5, the District Small Business Assistance Representative (DSBAR) is available to assist small businesses in completing the petition forms and developing compliance schedules. The DSBAR can be reached at (858) 586-2656.

APPLICANTS FOR INTERIM VARIANCE:

If you are requesting an **INTERIM VARIANCE** you will be required to prove to the Hearing Board that there is good cause for granting the interim variance, pending a regular variance hearing. Therefore, please be prepared to present evidence to the Board that there is good cause for granting your variance based on the likelihood that the Hearing Board will be able to make the findings required to subsequently grant a regular variance.

APPLICANTS FOR 90 DAY OR REGULAR VARIANCE:

If you are requesting a **90-DAY or REGULAR VARIANCE**, the Board will be required to make the following findings and you should be prepared at the hearing to present factual testimony and evidence to show each of the findings has been satisfied:

- A. The petitioner is or will be in violation of District Rule _____.
- B. That, due to conditions beyond the reasonable control of the petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing of a lawful business. In making those findings where the petitioner is a public agency, the hearing board shall consider whether or not requiring immediate compliance would impose an unreasonable burden upon an essential public service. For purposes of this paragraph, "essential public service" means a prison, detention facility, police or fire fighting facility, school, health care facility, landfill gas control or processing facility, sewage treatment works, or water delivery operation, if owned and operated by a public agency.

Present factual testimony and evidence that shows why the need for a variance is beyond your reasonable control and the impact denial of a variance would have on your business or agency.

- C. That such closing or taking would be without a corresponding benefit in reducing air contaminants:

Present factual testimony and evidence to compare the reduction in air contaminants if you were not given a variance to the business impact discussed above in (b).

- D. That the Petitioner for the Variance has given consideration to curtailing operations of the source in lieu of obtaining a Variance:

Present factual testimony and evidence that shows the efforts you have made to achieve compliance instead of requesting this variance.

- E. During the period the Variance is in effect, that the Petitioner will reduce excess emissions to the maximum extent feasible:

Present factual testimony and evidence that shows how you will reduce emissions to the maximum extent possible if granted a variance.

- F. During the period the Variance is in effect, that the Petitioner will monitor or otherwise quantify emission levels from the source, if requested to do so by the District, and report these emission levels to the District pursuant to a schedule established by the District:

Present factual testimony and evidence that shows that you will not create a public nuisance or create a threat or hazard to public health and that you, keep records, logs, and schedules to quantify emissions.

To petition for a product variance, include the "facts supporting findings necessary to grant a product variance" form instead of the standard "facts supporting findings necessary to grant a 90-day or regular variance" form.